

REMARKS

The present Amendment is in response to the Official Action mailed June 28, 2010 ("the Action"). Claims 1, 4, 6, 9, 13, 18, 19, and 21 have been amended, while claims 3, 5, 8, 11, 12, 14-17, 20, and 23 have either been canceled herein or previously canceled. Therefore, claims 1, 2, 4, 6, 7, 9, 10, 13, 18, 19, and 21 remain pending in the present case. The following sets forth Applicants' remarks pertaining to those pending claims in the Action.

In the Action, the Examiner first objected to the drawings under 37 C.F.R. 1.83(a) for failing to show every feature of the invention specified in the claims. Specifically, the Examiner asserted that the drawings do not show a "relative angle designation mark" extending from an upper surface to a lower surface, and an "axially medial groove." In a similar fashion, the Examiner rejected claims 1-4, 6-10, 13, 14, 16, and 18-22 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement because the specification does not teach an angle designation mark that extends from an upper surface to a lower surface, and claims 4, 6-10, 13, 14, 16, and 18-22 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention, as the Examiner did not believe the term "axially medial groove" was support. With regard to the latter, the Examiner suggested utilizing the term "annular groove," and noted that such was indeed supported.

By way of the present Amendment, Applicants have made two significant amendments. First, each of the independent claims has been amended to require at least one relative angle designation mark on each of the upper and lower surfaces. This, in connection

with the removal of the limitation requiring a relative angle designation mark extending from the upper surface to the lower surface, overcomes the § 112, first paragraph and drawing objections. Indeed, the drawings show a spacer having two relative angle designation marks, one on each of the upper and lower surfaces (see e.g., FIG. 4A). Likewise, certain of the independent claims have been amended (as well as certain dependent claims) to replace the term "axially medial groove" with the term "annular groove" per the Examiner's suggestions. Applicants respectfully submit that these amendments overcome not only the 112 rejections, but also the drawing objections. Thus, such rejections and objections are respectfully requested to be withdrawn.

Further in the Action, the Examiner rejected claims 1-4, 6-10, 13, 14, 16, and 18-22 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,425,920 to Hamada ("Hamada") in view of U.S. Patent No. 5,306,308 to Gross et al. ("Gross"). Applicants have previously argued over rejections based at least in part in view of the combination of Hamada and Gross. Applicants respectfully reassert such arguments here, but also note the above amendments even further define the claims over that of the cited prior art. Specifically, Gross, which the Examiner cites as teaching the relative angle designation mark extending from the upper surface to the lower surface, does not teach the now required multiple angle designation marks. Indeed, element 12 of the implant of Gross (see FIG. 4D), which was pointed to by the Examiner, extends between the upper and lower surface, and thusly only one is included. In light of the above amendments, Applicants respectfully submit that even the combination of Hamada and Gross fails to teach each and every one of the limitations of the currently pending claims.

Therefore, in light of the foregoing, Applicants respectfully request allowance of each and every one of the currently pending claims. As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that she telephone Applicants' attorney at (908) 654-5000 in order to overcome any additional objections which she might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: November 12, 2010

Respectfully submitted,
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